

United States District Court

For the Northern District of California

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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APPLIED SIGNAL TECHNOLOGY, INC., No. C-09-02180 SBA (DMR)

Plaintiff,

**ORDER ON OCTOBER 7, 2011 JOINT
DISCOVERY LETTER**

v.

EMERGING MARKETS
COMMUNICATIONS, INC. ET AL,

Defendants.

Before the court is the October 7, 2011 joint letter submitted by Plaintiff and counter-defendant Raytheon-AST (“AST”) and Defendants ViaSat, Inc. and Paradise Datacom, LLC (“ViaSat”) setting forth the parties’ discovery dispute. [Docket No. 282.] The court conducted a telephonic hearing on November 14, 2011. This Order summarizes the rulings made by the court on the record during the November 14, 2011 hearing.

The court construes AST’s request to allow specific in-house counsel to receive access to licensing agreements designated as “Highly Confidential -- ATTORNEY’S EYES ONLY” (“AEO”) as a motion for relief from the AEO provision in the parties’ protective order. Given the court’s concerns about competitive decisionmakers having access to licensing agreements, which is highly sensitive information, the court does not find grounds to relieve AST from the AEO provision. The

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1 existence of the AEO provision and related case law makes it clear that the question is one of
2 inadvertent disclosure. *See In re Deutsche Bank Trust Co.*, 605 F.3d 1373, 1378 (Fed. Cir. 2010)
3 (“there may be circumstances in which even the most rigorous efforts of the recipient of such
4 [sensitive] information to preserve confidentiality in compliance...with a protective order may not
5 prevent inadvertent compromise.”); *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1465, 1471
6 (9th Cir. 1992); *Intel Corp. v. Via Technologies, Inc.*, 198 F.R.D. 525, 529-530 (N.D. Cal. 2000).
7 Further, there is no evidence that the parties reached an agreement relieving them from the
8 obligations of the AEO provisions of the protective order. Accordingly, the motion is DENIED.

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10 IT IS SO ORDERED.
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12 Dated: November 15, 2011
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